

JUL 24 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lane Lee et al.

Title: System and Method for Detecting Unauthorized Copying of
Encrypted Data

Application No.: 09/940,174

Filing Date: August 27, 2001

Examiner: Calvin Hewitt II

Group Art Unit: 3621

Docket No.: M-12038 US

Confirmation No. 5308

Irvine, California
July 24, 2008Via Facsimile to (571) 273-8300Mail Stop: APPEAL BRIEF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**CERTIFICATION OF FACSIMILE TRANSMISSION**I hereby certify that the following documents are being facsimile transmitted to the
U.S. Patent and Trademark Office on the date shown below:

- 1) Transmittal of Appellant's Amended Reply Brief (1 page); and
- 2) Appellant's Amended Reply Brief (6 pages).

Dated: July 24, 2008


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Lane Lee, et al.
Application No. 09/940,174
Filing Date: 08/27/2001
For: System and Method For Detecting
Unauthorized Copying of Encrypted Data
Examiner: Calvin Hewitt, II
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Attorney Docket No.: M-12038 US

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TRANSMITTAL OF APPELLANTS' AMENDED REPLY BRIEF

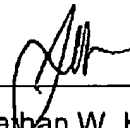
Dear Sir:

Please replace the Appellant's Reply Brief filed July 23, 2008 with the attached Amended Appellant's Reply Brief. The only change is to page 2, section "Status of Claims", as follows:

The rejection of claims 1-3, ~~and 9~~ is appealed.

Respectfully submitted,

Date: July 24, 2008

By: 
Jonathan W. Hallman
Reg. No. 42,622

JUL 24 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Lane Lee, et al.

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Examiner: Calvin Hewitt, II

Art Unit: 3621

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APPELLANTS' AMENDED REPLY BRIEF

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Status of Claims

Claims 4, 5, 6 – 8, and 10 – 23 are cancelled.

Claims 1 – 3, 9, 15, 17, 18, 21 and 22 are pending and are at least twice rejected by the non-final Office Action dated December 8, 2006.

The rejection of claims 1 – 3 is appealed.

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Grounds of Rejection to Be Reviewed on Appeal

- 1) Whether, under 35 U.S.C. § 102(a), claims 1-3 and are anticipated by U.S. Patent No. 6,782,190 to Morito.
- 2) Whether, under 35 U.S.C. § 103(a), claim 3 is unpatentable over U.S. Patent No. 6,782,190 to Morito in view of U.S. Patent No. 6,519,700 to Ram et al.

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Argument**1) Applicants' arguments in the Opening Brief have not been fully addressed by the Examiner's Answer**

Applicants gratefully acknowledge the Examiner's indication that he will give patentable weight to the conditional limitations. However, Applicants respectfully note that their remaining arguments were disregarded and given no response in the Examiner's Answer. In that regard, the analysis used in the Examiner's answer gives no weight or consideration to express claim limitations. For example, claim 1 recites the limitation of "detecting an unauthorized action *solely from the pre-recorded identifier being located in the writeable portion*" (emphasis added). Although this limitation has been stressed during prosecution and in the appeal brief, claim 1 is deemed to be anticipated by Morito (USP 6,782,190), a reference that actively teaches away from any such a detection. Applicants will once again explain why Morito teaches away from such a detection.

Morito describes his copy control protection with regard to Figure 7, which illustrates both the creation of a disk (steps S9 through S12) as well as the playback of the disk (steps s13 through S16). A Morito disk has a laser-inscribed bar code that acts as disk identifier (denoted as Sp, see, e.g., Col. 5, lines 63-65 with regard to step s13). This disk identifier is also written to the data area (see, e.g., Col. 5, lines 59-60 with regard to step s9). It may thus be seen that if an unauthorized copy of the disk is made, the data area will be copied over to the new disk with the disk identifier from the original disk. But this new disk will have a different laser-inscribed disk identifier. A Morito player can then identify this difference by testing if the laser-inscribed identifier (Sp) equals the data area identifier (Sd).

It may thus be seen how different Applicants method is – Applicants were guarding against the copying of ROM data into a RAM portion of another ROM/RAM disk. In that regard, Applicants developed different types of identifiers for their ROM and RAM disk portions. Thus, by having these different types of

identifiers, the mere presence of a ROM identifier in the RAM portion identifies a disk as a bootleg. Hence the recitation in claim 1 of the "detecting an unauthorized action *solely from the pre-recorded identifier being located in the writeable portion*" (emphasis added) limitation. In contrast, Morito must read both the identifier in his ROM portion and the identifier in his RAM portion and compare them to determine if he has a forgery. Indeed, there is no "pre-recorded content" in a Morito disk as would be understood by anyone of ordinary skill in the art – pre-recorded content is what the consumer wants in obtaining such a disk. It is substantive data whereas the identifier in Morito's pre-recorded area is meta-data, not the pre-recorded content the consumer is interested in. Thus, whether a Morito identifier is located in the writeable portion gives a Morito disk drive no cause to detect an unauthorized action. Only by further comparing the Morito identifier (S_p) to the S_d identifier can Morito detect an unauthorized copy.

Because of these differences between Morito and the claimed invention, there is no teaching or suggestion in Morito for the claim 1 act of "determining whether the identifier identifies itself as a pre-recorded identifier or a written identifier" because Morito has only one type of identifier that is stamped into the ROM area during manufacture and then copied and written to the RAM area during a write operation. In addition, Morito has not teaching or suggestion for the act of "if the identifier identifies itself as a pre-recorded identifier and is located in the writeable portion of the optical disk; detecting an unauthorized action solely from the pre-recorded identifier being located in the writeable portion" such that claim 1 and its dependent claims 2 and 3 are patentable over Morito.

2) The Ram reference adds nothing further to Morito

The Ram reference does nothing to cure the infirmities of the Morito reference discussed above. Accordingly, claims 1, 2, and 3 are patentable over the combination of the Morito and Ram references.

Conclusion

Therefore, in light of the foregoing arguments, Applicants respectfully request the Honorable Board of Appeals to reverse the decision of the Examiner with respect to claims 1 -3.

Respectfully submitted,

Date: _____

July 29, 2008

By: _____

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